

## **REMARKS**

### **1. INTRODUCTION**

Applicants thank the Examiner for allowing claims 7, 8, and 10-12, and for the indication of allowable subject matter in claim 6. Applicants have amended claims 1, 3, and 9. Accordingly, claims 1-18 are presently pending in this application, with claims 13-18 being withdrawn from consideration. Applicants respectfully request further examination and reconsideration of the application in view of the foregoing amendments and the following arguments.

### **2. AMENDMENTS TO THE CLAIMS**

Claim 1 has been amended to recite that the positions of the first and second ends of the cable “are fixed relative to said first and second frame rails, respectively.” Claims 3 and 9 have been amended to clarify that the first and second ends of the cable comprise threaded ends. Support for these amendments can be found throughout the specification and drawings including paragraphs [0025] – [0027], and Figure 1. Applicants respectfully submit that these amendments do not add any new matter.

### **3. REJECTION OF CLAIMS UNDER 35 U.S.C. § 112**

Claims 3 and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants respectfully submit that any contradiction of these claims with the claims from which they depend, claims 1 and 7 respectively, have been resolved by amendment, as discussed in Section 2, above. Applicants respectfully request that the rejection of claims 3 and 9 under 35 U.S.C. § 112 be withdrawn

### **4. REJECTION OF CLAIMS UNDER 35 U.S.C. § 102**

Claims 1, 2, and 4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ross et al. (US. Pat. App. Pub. 2001/0013693). Applicants respectfully submits that the rejection of claims 1, 2, and 4 is improper, because Ross et al. does not disclose or suggest each and every

limitation set forth in the claims as amended. In re Paulsen, 30 F.3d 1475, 1478-79, 31 U.S.P.Q.2d 1671 (Fed. Cir. 1994); Verdegaal Bros. v. Union Oil Co. of California, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1997) (“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.”). Specifically, Ross et al. does not disclose or suggest a cable whose ends are fixed relative to first and second frame rails, respectively. In contrast, Ross et al. discloses a cable (106) whose effective length between rails (11, 11’) changes depending upon on the activation of an air actuator (101). (See Paragraph [0050] “The effective transverse length of cable 106 is greatest when air actuator 101 is in the collapsed state ... .” “air from the air reservoir (not shown) fills air actuator 101 and elongates the actuator in a frontward direction, which in turn shortens the transverse length of cable 106 ... .”) The ends of cable (106) are fixed to pins (49, 59), which retract from and extend into openings in rails (11, 11’), depending on the activation of air actuator (101).

Because Ross et al. does not disclose or suggest a torsion attenuator that meets all of the limitations recited in independent claim 1, Applicants submit that the rejection of claim 1 under 35 U.S.C. § 102(b) has been overcome. Further, because each of claims 2 and 4, Applicants submit that the rejection of claims 2 and 4 under 35 U.S.C. § 102(b) has also been overcome. Accordingly, Applicants respectfully request that the rejection of claims 1, 2 and 4 under 35 U.S.C. § 102(b) be withdrawn.

#### **5. REJECTION OF CLAIMS UNDER 35 U.S.C. § 103**

Claim 1, 2, 4, and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ressler (U.S. Pat. No. 5,137,413) in view of Ross, et al. (US. Pat. App. Pub. 2001/0013693). Applicants respectfully submit that the rejection is improper because the Examiner has failed to establish a prima facie case of obviousness with respect to claims 1, 2, 4, and 5.

“Patent examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case.” MPEP § 2141 (emphasis in original).

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations.

MPEP § 2143.

Applicants submit that the Examiner has failed to establish a prima facie case of obviousness with respect to claims 1, 2, 4, and 5 because there is no suggestion or motivation in the art to combine the teachings of Ressler and Ross et al.

Applicants further respectfully submit that the rejection of claim 1 under 35 U.S.C. § 103(a) is improper because the combination of Ressler and Ross et al. fails to teach or suggest all of the limitations set forth in the claim, as amended. As set forth in Section 4, above, Ross et al. does not disclose or suggest a cable whose ends are fixed relative to first and second frame rails, respectively. Similarly, Ressler does not disclose or suggest such a feature. Ressler discloses a cable (62) that is wound and unwound about a winch (60) to lower and raise a vehicle frame (19) to adjust the angle of a ramp (44) for a wheelchair. (Col. 7, lines 10-16.) Finally, for at least the reasons stated herein, Applicants respectfully disagree with the Examiner's assertions that the arrangement of Ressler in view of Ross et al. is structurally the same as Applicant's claimed invention, and that the arrangement of Ressler in view of Ross et al. would perform the same function as Applicants' invention to at least some degree. Because the combination of Ressler and Ross et al. does not teach or suggest a torsion attenuator that meets the limitations of claim 1, Applicants submit that the rejection of claim 1 under 35 U.S.C. § 103(a) has been overcome. Further, because each of claims 2, 4, and 5 depend from independent claim 1, Applicants submit that the rejection of claims 2, 4, and 5 under 35 U.S.C. § 103(a) has been overcome. Accordingly, Applicants request that the rejection of claims 1, 2, 4, and 5 under 35 U.S.C. § 103(a) be withdrawn.

**6. ALLOWABLE SUBJECT MATTER**

Applicants thank the Examiner for allowing claims 7, 8, and 10-12, and for the indication of allowable subject matter in claim 6.

**7. CONCLUSION**

For the above cited reasons, all of the claims presently pending in this application are believed to be allowable. If the Examiner has any further questions or concerns, the Examiner is invited to contact the Applicants' undersigned attorney.

Respectfully submitted,

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By: /Adam B. Strauss  
Adam B. Strauss  
Reg. No. 43,167  
Dykema Gossett PLLC  
39577 Woodward Avenue, Suite 300  
Bloomfield Hills, MI 48304  
(248) 203-0764  
ipmail@dykema.com  
Customer No. 26127  
Attorney for Applicant(s)